

# HANDY REFERENCE GUIDE TO WAGE AND HOUR LAWS

A JOINT PUBLICATION OF THE U.S. DEPARTMENT OF  
LABOR AND THE ARKANSAS DEPARTMENT OF LABOR

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**This publication covers both Federal and State laws.** Regular type such as you are reading now is indicative of Federal law, **and** *italic type such as this is indicative of Arkansas law.*



The Fair Labor Standards Act (FLSA) establishes minimum wage, overtime pay, record keeping, and child labor standards affecting more than 113 million full-time and part-time workers in the private sector and in Federal, State, and local governments.

The Wage and Hour Division (Wage-Hour) administers and enforces FLSA with respect to private employment, State and local government employment, and Federal employees of the Library of Congress, U.S. Postal Service, Postal Rate Commission, and the Tennessee Valley Authority. The Office of Personnel Management is responsible for enforcement with regard to all Federal employees.

Special rules apply to State and local government employment involving fire protection and law enforcement activities, volunteer services, and compensatory time off in lieu of cash overtime pay.

## Basic Wage Standards

Covered nonexempt workers are entitled to a minimum wage of not less than \$5.15 an hour. Overtime pay at a rate of not less than one and one-half time their regular rates of pay is required after 40 hours of work in a workweek.

Wages required by FLSA are due on the regular payday for the pay period covered. Deductions made from wages for such items as cash or merchandise shortages, employer required uniforms, and tools of the trade, are not legal to the extent that they reduce the wages of employees below the minimum rate required by FLSA or reduce the amount of overtime pay due under FLSA.

The FLSA contains some exemptions from these basic standards. Some apply to specific types of businesses; others apply to specific kinds of work.

While FLSA does set basic minimum wage and overtime pay standards and regulates the employment of minors, there are a number of employment practices that FLSA does not regulate.

For example, FLSA does not require:

1. Vacation, holiday, severance, or sick pay;
2. Meal or rest periods, holidays off, or vacations
3. Premium pay for weekend or holiday work
4. Pay raises or fringe benefits; and
5. A discharge notice, reason for discharge, or immediate payment of final wages to terminated employees.

The FLSA does not provide wage payment or collection procedures for an employee's usual or promised wages or commissions in excess of those required by the FLSA. However, some states do have laws under which such claims (sometimes including fringe benefits) may be filed.

Also, FLSA does not limit the number of hours in a day or days in a week an employee may be required or scheduled to work if the employee is at least 16 years old.

These matters are for agreement between the employer and the employees or their authorized representatives.



STATE

### **The Arkansas Minimum Wage Law**

Arkansas Code 11-4-201 et seq. is known as the "Minimum Wage Act of the State of Arkansas". Covered under this act are minimum wage, overtime, equal pay, child labor, and collection of wages.

Beginning October 1, 1997, employees covered under the state minimum wage law must be paid not less than \$5.15 per hour.

### **Limitation of State Law**

*The scope of the State Minimum Wage law is limited concerning some employment practices. The law does not require:*

- *Vacation, holiday, severance, or sick pay*
- *Rest periods, holidays off, or vacations*
- *Pay increases or fringe benefits*
- *Discharge notice, reason for termination, or immediate payment upon termination.*

*Upon discharging an employee from a job, an employer must pay wages due that employee within seven working days of the discharge, or on the next regularly scheduled payday, whichever comes first. If the owed wages have not been paid by this time, a claim may be filed by the employee to collect them.*

### **Who is Covered?**

*Employers who have four or more individuals working for them are subject to this law, except those employers subject to minimum wage and overtime provisions of the Fair Labor Standards Act.*

*According to this Act, an employer includes every person, firm, corporation, partnership, stock association, agent, manager, representative, or foreman or other person having control of any employment, place of employment, or of any employee.*

*Employees of the above employers are covered except:*

- *Executive, administrative, or professional employees*
- *Outside commission-paid salesmen*
- *Students whose work is part of a bona fide vocational training program*
- *Students who work in the schools they are attending*
- *Most farm laborers*
- *Independent contractors*
- *Employees of any government agency except public schools and school districts*
- *Employees who work for a non-profit recreational or educational camp that does not operate for more than seven (7) months a year.*



FEDERAL

### **Who is Covered?**

All employees of certain enterprises having workers engaged in interstate commerce, producing goods for interstate commerce, or handling, selling, or otherwise working on goods or materials that have

been moved in or produced for such commerce by any persons are covered by FLSA.

### **Enterprise Coverage**

A covered enterprise is the related activities performed through unified operation or common control by any person or persons for a common business purpose and

1. Whose annual gross volume of sales made or business done is not less than \$500,000 (exclusive of excise taxes at the retail level that are separately stated); or
2. Is engaged in the operation of a hospital, an institution primarily engaged in the care of those who are physically or mentally ill or disabled or aged, and who reside on the premises, a school for children who are mentally or physically disabled or gifted, a preschool, an elementary or secondary school, or an institution of higher education (whether operated for profit or not for profit); or
3. Is an activity of a public agency.

Construction and laundry/dry cleaning enterprises, which were previously covered regardless of their annual dollar volume of business, are now subject to the \$500,000 test.

Any enterprise that was covered by FLSA on March 31, 1990, and that ceased to be covered because of the increase in the enterprise coverage dollar volume test must continue to pay its employees not less than

\$3.35 an hour, and continues to be subject to the overtime pay, child labor and record keeping provisions of FLSA.

### **Individual Coverage**

Employees of firms which are not covered enterprises under FLSA may still be subject to its minimum wage, overtime pay, and child labor provisions if they are individually engaged in interstate commerce or in the production of goods for interstate commerce. Such employees include those who: work in communications or transportation; regularly use the mails, telephones, or telegraph for interstate communication, or keep records of interstate transactions; handle, ship, or receive goods moving in interstate commerce; regularly cross state lines in the course of employment; or work for independent employers who contract to do clerical, custodial, maintenance, or other work for firms engaged in interstate commerce or in the production of goods for interstate commerce.

### **Domestics**

Domestic service workers such as day workers, housekeepers, chauffeurs, cooks, or full-time babysitters are covered if they:

1. Receive at least \$50 in cash wages in a calendar quarter from their employers, or
2. Work a total of more than 8 hours a week for one or more employers.

### **Tipped Employees**

Tipped employees are those who customarily and regularly receive more than \$30 a month in tips. The employer may consider tips as part of wages, but such a wage credit must not exceed \$3.02 per hour.

The employer who elects to use the tip credit provision must inform the employee in advance and must be able to show that the employee receives at least the minimum wage when direct wages and the tip credit allowance are combined. Also, employees must retain all their tips, except to the extent that they participate in a valid tip pooling or sharing arrangement.

## **Employer-Furnished Facilities**

The reasonable cost or fair value of board, lodging, or other facilities customarily furnished by the employer for the employee's benefit may be considered part of wages.

## **Industrial Homework**

The performance of certain types of work in an employee's home is prohibited under the law unless the employer has obtained prior certification from the Department of Labor. Restrictions apply in the manufacture of knitted outerwear, gloves and mittens, buttons and buckles, handkerchiefs, embroideries, and jewelry (where safety and health hazards are not involved). The manufacture of women's apparel (and jewelry under hazardous conditions) is generally prohibited. If you have questions on whether a certain type of work is restricted, or who is eligible for a certificate, or how to obtain a certificate, you may contact the local Wage-Hour office.

## **Subminimum Wage Provisions**

The FLSA provides for the employment of certain individuals at wage rates below the statutory minimum. Such individuals include student-learners (vocational education students), as well as full-time students in retail or service establishments, agriculture, or institutions of higher education. Also included are individuals whose earnings or productive capacity is impaired by a physical or mental disability, including those related to age or injury, for the work to be performed. Employment at less than minimum wage is provided for in order to prevent curtailment of opportunities for employment. Such employment is permitted only under certificates issued by Wage-Hour.



## **Tipped Employees**

*According to state law, tipped employees are those who work in occupations where tips are regularly and customarily received for their services. Employers, as a result, are allowed to credit employees' wages for the money they receive. This credit cannot exceed 50% of the established minimum wage. If any question arises concerning this wage credit, the employee must prove that the amount he receives in gratuities during any workweek was less than the amount paid by the employer for that week.*

*However, if a student is working as a tipped employee, he must be paid as any other regular tipped employee.*

## **Employer Furnished Facilities**

*Employers of individuals working in any occupation in which board, lodging, apparel, or other items and services are usually furnished for the employee's benefit will be entitled to an allowance for the reasonable value of board, lodging, apparel or other items and services as part of the hourly wage rate provided.*

## **Handicapped Workers**

*The Arkansas Department of Labor has established procedures for employment of these workers. For further information, contact the Department of Labor.*

## **Student Learners**

A "Student Learner" is a person who is receiving regular instructions in an accredited school and who is employed on a part-time basis in a bona fide training program.

## **Student Rate**

The wage rate for any full-time student attending any accredited institution of education within the state of Arkansas, and who is employed to work an amount not to exceed twenty (20) hours during weeks that school is in session or forty (40) hours during weeks that school is not in session, (such rate of wages) shall be equal to, but not less than eighty-five percent (85%) of the applicable minimum wage.

Student workers subject to the 85% provision of the applicable minimum wage rate and a gratuity allowance shall not be paid less than the base wage guaranteed any other employee subject to gratuity allowance. Student Certificates of Eligibility are available from the Arkansas Department of Labor.



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## **Exemptions**

Some employees are excluded from the overtime pay provisions or both the minimum wage and overtime pay provisions by specific exemptions.

Because exemptions are generally narrowly defined under FLSA, an employer should carefully check the exact terms and conditions for each. Detailed information is available from local Wage-Hour offices. Following

are examples which are illustrative but do not spell out the conditions for each exemption.

## **Exemptions from Both Minimum Wage and Overtime Pay**

1. Executive, administrative, and professional employees (including teachers and academic administrative personnel in elementary and secondary schools), outside sales persons, and persons in certain computer-related occupations (as defined in Department of Labor regulations);
2. Employees of certain seasonal amusement or recreational establishments, employees of certain small newspapers, switchboard operators of small telephone companies, seamen employed on foreign vessels, and employees engaged in fishing operations;
3. Farm workers employed by anyone who used no more than 500 "man-days" of farm labor in any calendar quarter of the preceding calendar year; and
4. Casual babysitters and persons employed as companions to the elderly or infirmed.

## **Exemptions from Overtime Pay Provisions Only**

1. Certain highly-paid commissioned employees of retail or service establishments; auto, truck, trailer, farm implement, boat, or aircraft sales workers, or parts-clerks and mechanics servicing autos, trucks, or farm implements, and who are employed by non manufacturing establishments primarily engaged in selling these items to ultimate purchasers;
2. Employees of railroads and air carriers, taxi drivers, certain employees of motor carriers, seamen on American vessels, and local delivery employees paid on approved trip rate plans;
3. Announcers, news editors, and chief engineers of certain non metropolitan broadcasting stations;
4. Domestic service workers residing in the employers' residences;
5. Employees of motion picture theaters; and
6. Farm workers

## **Partial Exemptions from Overtime Pay**

1. Partial overtime pay exemptions apply to employees engaged in certain operations on agricultural commodities and employees of certain bulk petroleum distributors.
2. Hospitals and residential care establishments may adopt, by agreement with their employees, a 14-day work period in lieu of the usual 7-day workweek, if the employees are paid at least time and one-half their regular rates for hours worked over 8 in a day or 80 in a 14-day work period, whichever is the greater number of overtime hours.
3. Employees who lack a high school diploma, or who have not attained the educational level of the 8<sup>th</sup> grade, can be required to spend up to 10 hours in a workweek engaged in remedial reading or training in other basic skills without receiving time and one-half overtime pay for these hours. However, the employee must receive their normal wages for hours spent in such training and the training must not be job specific.

## **Child Labor Provisions**

The FLSA child labor provisions are designed to protect the educational opportunities of minor and prohibit their employment in jobs and under conditions detrimental to their health or well-being. The provisions include restrictions on hours of work for minors under 16 and lists of hazardous occupations orders for both farm and non-farm jobs declared by the Secretary of Labor as being too dangerous for minors to perform. Further information on prohibited occupations is available from local Wage-Hour offices.

## **Nonagricultural Jobs (Child Labor)**

Regulations governing youth employment in non-farm jobs differ somewhat from those pertaining to agricultural employment. In non-farm work, the permissible jobs and hours of work, by age, are as follows:

1. Youths 18 years and older may perform any job, whether hazardous or not, for unlimited hours;
2. Youths 16 and 17 years old may perform any non hazardous job, for unlimited hours; and

3. Youths 14 and 15 years old may work outside school hours in various non manufacturing, non mining, non hazardous jobs under the following conditions: no more than 3 hours on a school day, 18 hours in a school week, 8 hours on a non school day, or 40 hours in a non school week. Also, work may not begin before 7 a.m., nor end after 7 p.m., except from June 1 through Labor Day, when evening hours are extended to 9 p.m. Under a special provision, youths 14 and 15 years old enrolled in an approved Work Experience and Career Exploration Program (WECEP) may be employed for up to 23 hours in school weeks and 3 hours on school days (including during school hours.)

Fourteen is the minimum age for most non-farm work. However, at any age, youths may deliver newspapers; perform in radio, television, movie or theatrical productions; work for parents in their solely-owned non-farm business (except in manufacturing or on hazardous jobs); or, gather evergreens and make evergreen wreaths.

## **Hazardous Occupations Orders in Nonagricultural Occupations**

The Fair Labor Standards Act provides a minimum of 18 years for any nonagricultural occupations which the Secretary of Labor “shall find and by order declare” to be particularly hazardous for 16 and 17-year-old persons, or detrimental to their health and well-being. This minimum age applies even when the parent or person standing in the place of the parent employs the minor.

The 17 hazardous occupations orders now in effect apply either on an industry basis, specifying the occupations in the industry that are not covered, or on an occupational basis irrespective of the industry in which found.

### **The Orders in Effect Deal With:**

1. Manufacturing and storing explosives.
2. Motor-vehicle driving and outside helper.
3. Coal mining.
4. Logging and saw milling.
5. Power-driven woodworking machines.
6. Exposure to radioactive substances.
7. Power-driven hoisting apparatus.
8. Power-driven metal forming, punching, and shearing machines.

9. Mining, other than coal mining.
10. Slaughtering, or meatpacking, processing, or rendering.
11. Power-driven bakery machines.
12. Power-driven paper-products machines.
13. Manufacturing brick, tile, and kindred products.
14. Power-driven circular saws, band saws, and guillotine shears.
15. Wrecking, demolition, and ship breaking operations.
16. Roofing operations
17. Excavation operations.

### **Farm Jobs (Child Labor)**

In farm work, permissible jobs and hours of work, by age, are as follows:

1. Youths 16 years and older may perform any job, whether hazardous or not, for unlimited hours;
2. Youths 14 and 15 years old may perform any non hazardous farm job outside of school hours;
3. Youths 12 and 13 years old may work outside of school hours in non hazardous jobs, either with parent's written consent or on the same farm as the parents;
4. Youths under 12 years old may perform jobs on farms owned or operated by parents or, with parents' written consent, outside of school hours in non-hazardous jobs on farms not covered by minimum wage requirements.

Minors of any age may be employed by their parents at any time in an occupation on a farm owned or operated by their parents.



### **Child Labor Law**

*The Child Labor Law regulates the employment of minors under the age of 18 and requires 14 and 15 year olds to have employment certificates.*

*Children under the age of 14 may be employed by their parents or guardians in any occupation owned or controlled by their parents, provided the employment occurs during school vacations.*

*Children under the age of 16 may not work:*

- *More than 8 hours a day*
- *More than 6 days a week*
- *More than 48 hours in a week*
- *Before 6:00 a.m. nor after 7:00 p.m. except on nights preceding non school days, such children may work under 9:00 p.m.*

*Children under 18 may not work:*

- *More than 10 hours a day*
- *More than 6 days per week*
- *More than 54 hours per week*
- *Before 6:00 a.m. nor after 11:00 p.m. except that the limitation of 11:00 p.m. shall not apply to children under the age of 18 employed on nights preceding non-school days. Provided, however, that no child between the ages of 16 and 18 shall be subject to the provisions of this Act if:*
  - (a) *Such child is a graduate of any high school, vocational school, or technical school or*
  - (b) *Such child is married or is a parent.*

*Some occupations are prohibited for children less than 16 years of age. For example, children under 16 cannot work in a saloon, resort, or bar where alcoholic beverages are sold or dispensed. Neither can they be*

employed upon the stage of a theater or concert hall in connection with any theatrical performance, exhibition, or show. The only exception that can be applied is when a child and his parents perform together in a theatrical production, saloon, resort or bar, and the parent remains with the child to supervise the child.

No child under 16 is permitted to work at any of the following occupations:

1. Adjusting belts or machinery
2. Sewing or lacing machinery
3. Oiling, wiping, or cleaning machinery
4. Operating or assisting in operating the following:
  - (a) Circular or band saws
  - (b) Wood shapers
  - (c) Wood jointers
  - (d) Planers
  - (e) Sandpaper or wood polishing machinery
  - (f) Wood turning or boring machinery
  - (g) Picker machines or machines used in picking wool
  - (h) Carding machines
  - (i) Job or cylinder printing presses not operated by foot power
  - (j) Boring or drill presses
  - (k) Stamping machines used in certain manufacturing
  - (l) Metal or paper cutting machines
  - (m) Corner staying machines in paper box factories
  - (n) Steam boilers
  - (o) Dough brakes or cracker machinery
  - (p) Wire or iron straightening or drawing machinery
  - (q) Rolling mill machinery
  - (r) Washing, grinding, or mixing machinery
  - (s) Laundering machinery
5. In the proximity to hazardous, unguarded belts, machinery, or gearing
6. On the railroad
7. Anywhere poisonous or dangerous chemicals, gases, or acids are present
8. Soldering
9. Occupations where dust is present in injurious quantities
10. Scaffolding
11. Heavy work in building trades
12. In tunnel or excavation work
13. In mines, coal breakers, coke ovens, or quarries
14. In a pool hall

15. Nor in any other place or occupation dangerous to life, health, or morals of such person.

### **Employment Certificates**

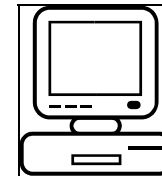
The Arkansas Child Labor Law requires employers who hire children less than 16 years of age to get and keep on file at the place of business an employment certificate. These can be obtained from the Director of Labor or his authorized representative.

The authorized representative will require proper identification of the child's age before a certificate will be issued.

### **Enforcement of Child Labor Provisions**

Violations of the Arkansas Child Labor Law are discovered by visitation and inspection of workplaces by either the Director of Labor or other authorized investigators. Once the investigations have been completed, these inspectors can file complaints and prosecute violators.

Anyone who violates the child labor laws shall be subject to a civil money penalty of not less than fifty (\$50) dollars and not more than one thousand (\$1,000) dollars for each violation. Each day the violation continues shall, with respect to each child so employed or permitted to work, constitute a separate offense.



### **Record Keeping**

The FLSA requires employers to keep records on wages, hours, and other items, as specified in Department of Labor record keeping regulations. Most of the information is of the kind generally maintained by employers in ordinary business practice and in



compliance with other laws and regulations. The records do not have to be kept in any particular form and time clocks need not be used. With respect to an employee subject to both minimum wage and overtime pay provisions, the following records must be kept:

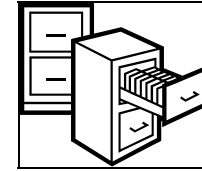
1. Personal information, including employee's name, home address, occupation, sex, and birth date (if under 19 years of age);
2. Hour and day when workweek begins
3. Total hours worked each workday and each workweek
4. Total daily or weekly straight-time earnings;
5. Regular hourly pay rate for any week when overtime is worked;
6. Total overtime pay for the workweek;
7. Deductions from or additions to wages;
8. Total wages paid each pay period; and
9. Date of payment and pay period covered.

Records required for exempt employees differ from those for nonexempt workers, and special information is required for home workers, for employees working under uncommon pay arrangements, for employees to whom lodging or other facilities are furnished, or for employees receiving remedial education.

### **Terms Used in FLSA**

**Workweek** – A workweek is a period of 168 hours during 7 consecutive 24-hour periods. It may begin on any day of the week and any hour of the day established by the employer. Generally, for purposes of minimum wage and overtime payment each workweek stands alone; there can be no averaging of 2 or more workweeks. Employee coverage, compliance with wage payment requirements, and the application of most exemptions are determined on a workweek basis.

**Hours Worked** – Covered employees must be paid for all hours worked in a workweek. In general, "hours worked" includes all time an employee must be on duty, or on the employer's premises or at any other prescribed place of work. Also included is any additional time the employee is suffered or permitted to work.



### **Record Keeping**

*All employers subject to the Minimum Wage Law must keep accurate records for a period of 3 years. These records must include the name, address, occupation, rate of pay, and the amount paid each pay period for all employees covered by the law. In addition, every employer who claims an allowance for tips, board, lodging, apparel, or other items or services as part of the applicable minimum wage rate, must maintain daily records showing for each employee the amounts claimed as allowances and must maintain records which will substantiate the amount of tips actually received by the employee or the employer's reasonable cost in supplying items or services to the employee.*

### **Posting of the Law**

*Every employer subject to any provision of the Act must post in a conspicuous and accessible place on the work premises a copy of the "Arkansas Department of Labor Notice to Employer and Employee" poster.*

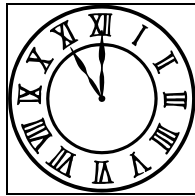
### **Overtime Pay**

*This Act provides overtime compensation at the rate of one and one-half times the regular hourly rate of pay for hours worked in excess of 40 hours in a workweek. The overtime provision shall not be applicable with respect to employers with less than four (4) employees, employers subject to the minimum wage and overtime provisions of the Fair Labor Standards Act, or agricultural employees.*

## **Enforcement of Labor Laws**

*The Director or his representative has the authority to:*

- a. Enter and inspect any place of employment in the state to examine books, payrolls, and records that have to do with wages and hours. He may copy these records if necessary and may question any employees to find out if the law is being obeyed.*
- b. Require written or sworn statements from an employer about his employee's earnings and hours of work*
- c. Assess a civil money penalty from \$50.00 to \$1,000.00 per violation.*



### **Computing Overtime Pay**

Overtime must be paid at a rate of at least one and one-half times the employee's regular rate of pay for each hour worked in a workweek in excess of the maximum allowable in a given type of employment. Generally, the regular rate includes all payments

made by the employer to or on behalf of the employee (excluding certain statutory exceptions). The following examples are based on a maximum 40-hour workweek.

**(1) Hourly Rate** – (regular pay rate for an employee paid by the hour). If more than 40 hours are worked, at least one and one-half times the regular rate for each hour over 40 is due.

**Example:** An employee paid \$5.20 per hour works 44 hours in a workweek. The employee is entitled to at least one and one-half times \$5.20, or \$7.80 for each hour worked over 40. Pay for the week would be \$208.00 for the first 40 hours, plus \$31.20 for the four hours overtime – a total of \$239.20.

**(2) Piece rate** – The regular rate of pay for an employee paid on a piecework basis is obtained by dividing the total weekly earnings by the total number of hours worked in the same week. The employee is

entitled to an additional one-half times this regular rate for each hour over 40, plus the full piecework earnings.

**Example:** An employee paid on piecework basis works 50 hours in a week and earns \$500. The regular rate of pay for that week is \$500 divided by 50, or \$10.00 an hour. In addition to the straight-time pay, the employee is entitled to \$5.00 (half the regular rate) for each hour over 40.

Another way to compensate pieceworkers for overtime, if agreed to before the work is performed, is to pay one and one-half times the piece rate for each piece produced during the overtime hours.

The piece rate must be the one actually paid during the non-overtime hours and must be enough to yield at least the minimum wage per hour.

**(3) Salary** – The regular rate for an employee paid a salary for a regular or specified number of hours a week is obtained by dividing the salary by the number of hours for which the salary is intended to compensate.

If, under the employment agreement, a salary sufficient to meet the minimum wage requirements in every workweek is paid as straight time for whatever number of hours are worked in a workweek, the regular rate is obtained by dividing the salary by the number of hours worked each week. To illustrate, suppose an employee's hours of work vary each week and the agreement with the employer is that the employee will be paid \$300 a week for whatever number of hours of work are required. Under this agreement, the regular rate will vary in overtime weeks. If the employee works 50 hours, the regular rate is \$6 (\$300 divided by 50 hours). In addition to the salary, half the regular rate, or \$3 is due for each of the 10 overtime hours, for a total of \$330 for the week. If the employee works 45 hours, the regular rate will be \$6.66 (\$300 divided by 45). In that case an additional \$3.33 is due for each of the 5 overtime hours, for a total of \$16.65.

In no case may the regular rate be less than the minimum wage required by FLSA.

If a salary is paid on other than a weekly basis, the weekly pay must be determined in order to compute the regular rate and overtime. If the salary is for half month, it must be multiplied by 24 and the product divided by 52 weeks to get the weekly equivalent. A monthly salary should be multiplied by 12 and the product divided by 52.

## **Enforcement**

Investigators stationed across the U.S. carry out Wage-Hour's enforcement of FLSA. As Wage-Hour's authorized representatives, they have the authority to conduct investigations and gather data on wages, hours, and other employment conditions or practices, in order to determine compliance with FLSA. Where violations are found, they also may recommend changes in employment practices, in order to bring an employer into compliance with FLSA.

It is a violation of FLSA to fire or in any other manner discriminate against an employee for filing a complaint or for participating in a legal proceeding under FLSA.

Willful violations may be prosecuted criminally and the violator fined up to \$10,000. A second conviction may result in imprisonment.

Violators of the child labor provisions are subject to a civil money penalty of up to \$10,000 for each employee who was the subject of a violation.

Employers who willfully or repeatedly violate the minimum wage or overtime pay requirements are subject to civil money penalties of up to \$1,000 per violation.

The FLSA prohibits the shipment of goods in interstate commerce that were produced in violation of the minimum wage, overtime pay, child labor, or special minimum wage provisions.

## **Recovery of Back Wages**

Listed below are methods that FLSA provides for recovering unpaid minimum and/or overtime wages.

1. Wage-Hour may supervise payment of back wages.
2. The Secretary of Labor may bring suit for back wages and an equal amount as liquidated damages.
3. An employee may file a private suit for back pay and an equal amount as liquidated damages, plus attorney's fees and court costs.
4. The Secretary of Labor may obtain an injunction to restrain any person from violating FLSA, including the unlawful withholding of proper minimum wage and overtime pay.

An employee may not bring suit if he or she has been paid back wages under the supervision of Wage-Hour or if the Secretary of Labor has already filed suit to recover the wages.

A 2-year statute of limitations applies to the recovery of back pay, except in the case of willful violation, in which case a 3-year statute applies.

## **Other Labor Laws**

In addition to FLSA, Wage-Hour enforces and administers a number of other labor laws. Among these are:

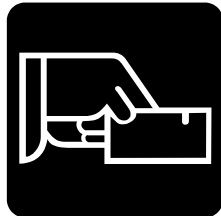
1. The Family and Medical Leave Act (entitles eligible employees of covered employers to take up to 12 weeks of **unpaid** job-protected leave each year, with maintenance of group health insurance, for specified family and medical reasons, such as seriously-ill children, parents, or spouse, newly-born or adopted infants, or the employee's own serious illness).
2. The Walsh-Healey Public Contracts Act (requires payment of minimum wage rates and overtime pay on contracts to provide goods to the Federal government);
3. The Service Contract Act (requires payment of prevailing wage rates and fringe benefits on contracts to provide services to the Federal Government);
4. The Davis-Bacon and Related Acts (require payment of prevailing wage rates and fringe benefits on federally-funded or assisted construction).
5. The Contract Work Hours and Safety Standards Act (sets overtime standards for service and construction contracts);
6. The Immigration and Nationality Act (Wage-Hour is authorized to review the Immigration and Naturalization Service forms (I-9) required under the Act; employers must verify the employment eligibility of all individuals hired, and must keep I-9s on file for at least 3 years and for one year after an employee is terminated);
7. The Migrant and Seasonal Agricultural Worker Protection Act (protects farm workers by imposing certain requirements on agricultural employers and associations; and by requiring the registration of crew leaders who must also provide the same worker protections);
8. The H-2A provisions of the Immigration and Nationality Act (provide for the enforcement of contractual obligations of job

offers which have been certified by employers of temporary alien nonimmigrant agricultural workers);

9. The Wage Garnishment Law (limits amount of an individual's income that may be legally garnished and prohibits the firing of an employee whose pay is garnished for payment of a single debt);
10. The Employee Polygraph Protection Act (prohibits most private employers from using any type of lie detector test either for pre-employment screening of job applicants or for testing current employees during the course of employment);
11. The Immigration Act of 1990 (provides for the enforcement of employment conditions attested to by employers seeking to employ alien crewmembers to perform specified long shore activity at U.S. ports);
12. The H-1B provisions of the Immigration and Nationality Act (governs enforcement of labor condition applications filed by employers wishing to employ aliens in specialty occupations and as fashion models of distinguished merit and ability, on H—1B visas);

More detailed information on FLSA and other laws administered by Wage-Hour is available from the following Wage-Hour offices in Arkansas:

Little Rock	501-324-5292
Fort Smith	479-646-2710
Pine Bluff	870-534-7179
Jonesboro	870-972-4618
Fayetteville	479-442-4205
Toll Free Nationwide	1-866-487-9243



### **Wage Collection**

*The Wage Collection Act provides assistance to any employee in the collection of wages due him or her for*

*work performed. Work performed shall include all or any work or service performed by any person employed for any period of time where the wages or salary or remunerations for such work or services are to be paid at stated intervals or at the termination of such employment, or for physical work actually performed by an independent contractor, provided that the amount in controversy does not exceed the sum of \$1,000.00. Employees who need help in collecting wages due them should contact the Wage Claims Division at (501) 682-4510.*

*For further information concerning State wage and hour laws, contact the Arkansas Department of Labor, Wage and Hour Division, at (501) 682-4505.*

### **Garnishment of Wages**

*For most practical purposes, the State law pertaining to restrictions on garnishments has been preempted by Federal legislation that became effective on July 1, 1970. Title III of the Consumer Credit Protection Act restricts garnishments to a maximum of 25% of an individual's wage per week or thirty (30) times the Federal minimum hourly wage in effect at the time the earnings are payable, or whichever is less.*

The Arkansas Department of Labor does not discriminate on the basis of disability in employment or in the admission or access to, or treatment, or employment in, its programs, services, or activities. Becky Bryant, Arkansas Department of Labor, 10421 West Markham, Little Rock, Arkansas 72205-2190, (501) 682-4540 (voice), 1-800-285-1131 (TDD Relay Service) has been designated to coordinate compliance with the non-discrimination requirements contained in 28 CFR 35.107 of the Department of Justice regulations. Information concerning the provisions of the Americans with Disabilities Act, and the rights provided thereunder, are available from the ADA coordinator.